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**STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
P.O. BOX 2000
SACRAMENTO, CA 95812-2000**

DIV OF WATER RIGHTS
SACRAMENTO

DRAFT INITIAL STUDY

Project Title: Rustic Retirement LLC. Water Rights Application 31183

Lead Agency Contact: Eric Oppenheimer
(916) 341-5384

Project Location: 1961 Vichy Springs Road, approximately 2 miles east of the town of Ukiah in Mendocino County, California. The project area is located in Lot 90 of the Yokayo Rancho within the Ukiah 7.5' USGS Quadrangle.

Project Sponsor's Name and Address: Jared Carter
Rustic Retirement LLC
1961 Vichy Springs Road
Ukiah, CA 95482

General Plan Designation: Ukiah Valley Area Plan classification- Rangeland

Zoning: Rangeland (RL 160)

Description of Project: A 30 foot by 200 foot dam and 2.5 acre, 26 acre foot on-stream reservoir is proposed on an unnamed tributary to Sulphur Creek, near Vichy Springs, east of Ukiah, California, to store water for the purposes of irrigation, frost protection and heat control of 20 acres of vineyards, recreation, fish and wildlife enhancement and preservation, fire control and domestic use. The applicant proposes to appropriate 49.5 ac-ft of water for the aforementioned beneficial uses. The watershed area upstream of the proposed dam is approximately 0.17 square miles, which is equal to about 2.6% of the total Sulphur Creek drainage area.

Surrounding Land Uses and Setting: Surrounding land uses include rural residential, agricultural grazing, recreation, and open space.

Other Public Agencies whose Approval Is Required:

- California Department of Fish and Game – Streambed Alteration Agreement (Obtained November 17, 2004)
- Mendocino County – Minor Subdivision Permit (Obtained July 11, 2001)
- North Coast Regional Water Quality Control Board - Waste Discharge Requirements (May be required)
- U.S. Army Corps of Engineers - Section 404 Permit (May be required)
- State Water Resources Control Board - Section 401 Water Quality Certification (May be required)

Chapter 1

Introduction

Summary of this Document

This initial study (IS) is a public document that assesses the environmental effects of the proposed operations described in Water Right Appropriative Application 31183, as required by the California Environmental Quality Act (CEQA) and in compliance with the State CEQA Guidelines (Title 14, California Administrative Code, Section 1400 et seq.). It serves as an informational document to be used in the decision-making process.

The State Water Resources Control Board, the state lead agency under CEQA for Water Rights Appropriation Applications, must evaluate the environmental impacts of projects when considering whether to approve them. This IS and companion Mitigated Negative Declaration (MND) for the proposed project have been prepared because all impacts that would result from the project are considered less than significant or less than significant with mitigation incorporated.

This document describes the proposed project, the existing environmental setting (before implementation of the project), and the potential environmental impacts of the proposed project. Chapter 3, “Environmental Checklist,” identifies the anticipated environmental impacts by topic.

This draft IS and proposed MND will be circulated for public and agency review, as required by CEQA. Because state agencies will act as responsible or trustee agencies, the State Water Resources Control Board will circulate the IS and proposed MND to the State Clearinghouse for distribution and a 30-day review. The draft IS and proposed MND will also be circulated to all known interested parties.

Scope of this Document

This document evaluates the project’s impacts on the following resource topics:

- aesthetics,
- agricultural resources,
- air quality,
- biological resources,
- cultural resources,

- geology and soils,
- hazards and hazardous materials,
- hydrology and water quality,
- land use and planning,
- mineral resources,
- noise,
- population and housing,
- public services,
- recreation,
- transportation/traffic, and
- utilities and service systems.

Impact Terminology

The following terms are used in this document to describe the levels of significance of impacts that would result from the project:

- The project is considered to have *no impact* if the analysis concludes that the project would not affect a particular resource.
- An impact is considered *less than significant* if the analysis concludes that the project would cause no substantial adverse change to the environment and that impacts would not require mitigation.
- An impact is considered *less than significant with mitigation incorporated* if the analysis concludes that the proposed project would cause no substantial adverse change to the environment with the inclusion of mitigation measures to which the applicant has agreed.
- An impact is considered *significant* if the project would cause a substantial adverse change to the environment.

Chapter 2

Project Description

Project Overview

A 30 foot by 200 foot dam and 2.5 acre, 26 acre foot on-stream reservoir is proposed on a small unnamed tributary to Sulphur Creek, near Vichy Springs, east of Ukiah, California, to store water for the purposes of irrigation, frost protection and heat control of 20 acres of vineyards, recreation, fish and wildlife enhancement and preservation, fire control and domestic use. The applicant proposes to appropriate 49.5 ac-ft of water for the aforementioned beneficial uses. The watershed area contributing to the proposed dam is approximately 0.17 square miles, which represents about 2.6% of the total Sulphur Creek drainage area.

Project Location and Existing Conditions

The proposed project area is located at 1961 Vichy Springs Road approximately 2 miles east of the town of Ukiah in Mendocino County, California. The project area is located in Lot 90 of the Yokayo Rancho within the Ukiah 7.5' USGS Quadrangle. The project area is contained within Assessors Parcels #181-240-01 and #178-220-05 at Latitude 39 09 02, Longitude 123 10 11. The project area is located on an unnamed tributary to Sulphur Creek, within the Russian River watershed. The proposed dam site is located on the unnamed tributary approximately 3,400 feet above the confluence with Sulphur Creek at an elevation of 760 feet above sea level.

The unnamed tributary at the project site is flowing in a westerly direction through Valley and Foothill Grassland habitat and Valley Oak Woodland. The project area has been used extensively in the past for cattle grazing. This cattle grazing has resulted in the terracing of hill sides and the erosion of stream banks. The vegetation surrounding the project area consists of heavily grazed grasslands, oak woodland with scattered madrone and an understory of manzanita and poison oak, and live oak patches.

The stream at the project site is a small Class II watercourse that provides habitat to aquatic species but generally flows only in response to extended periods of rainfall. In general the watercourse is approximately 2-3 feet in width and 6 inches - 2 feet in depth throughout the project site. The aquatic habitat is contained in small, scattered pools along the length of the watercourse. The pools are limited in size and number due to the lack of rock, large woody debris or other structural elements needed for pool creation and a general lack of flow throughout a majority of the year. As the watercourse flows through heavily grazed grasslands on site with very limited tree cover, no significant riparian vegetation is associated with the project site, however there are minor amounts of obligate and facultative wetland plants such as rush and cattails located surrounding the scattered pools. There are no spawning gravels, cover or food areas for fish species at or above the dam site. Other aquatic species such as yellow legged frogs, however, have been observed within the scattered pools and the stream is capable of transporting minor amounts of gravels and food to fish and other aquatic species downstream.

Surrounding land uses include residential, agricultural grazing, recreational, and open space.

The Soil Survey of Mendocino County, Eastern Part, classifies the soils on the project area as Xerochrepts-Haploxeralfs-Arigxerolls complex. This soil complex is 35% Xerochrepts, 30% Haploxeralfs, and 25% Arigxerolls. These soils are deep and well drained and formed from various kinds of rock. Permeability is moderate to moderately rapid and the hazard of erosion is moderate to high. Site specific soil and geological analysis have been conducted and have determined that the soils are suitable for the proposed use.

The proposed place of use is located in the SE ¼ of the SW ¼ of projected Section 15 Township 15 North Range 12 West, the SW ¼ of the SE ¼ of projected Section 15 Township 15 North Range 12 West, the NE ¼ of the NW ¼ of projected Section 22 Township 15 North Range 12 West, and the NW ¼ of the NE ¼ of projected Section 22 Township 15 North Range 12 West. The proposed place of use totals approximately 20 acres and is situated generally south and east of the existing house site on relatively gentle to moderately steep slopes dominated by annual grasses, oaks, and brush. The place of use contains undulating ground with several swales that run water only after heavy rainfall and would not be significantly impacted by the proposed project. See project map for location of place of use.

Environmental Commitments

The following studies have been conducted to assess any potential environmental impacts and are available for review at the State Water Resources Control Board office listed below.

- 1) Archaeological report prepared by Jay Flaherty of Archaeological Services, Inc.
- 2) Biological Report prepared by Theodore Wooster Consulting Biologist
- 3) Botany report prepared by Ms. Laurie Berry, North Coast Resource Management
- 4) Geologic study prepared by Neil A. Thomsen, consulting Engineering Geologist
- 5) Soil Analysis Report prepared by A&L Western Agricultural Laboratories
- 6) Surveying, mapping, analysis and engineered plans prepared by Ron W. Franz, Civil Engineer and Land Surveyor.
- 7) Water Availability Analysis prepared by Dr. Matt O'Connor of O'Connor Environmental Inc.

Required Approvals and Permits

This document will be used by the lead agency to document the proposed project's potential environmental impacts; to determine whether there is substantial evidence that the project will create significant environmental impacts; and, if such impacts are likely, whether they could be mitigated to a less-than-significant level. The following additional permits have been obtained in association with this project.

- California Department of Fish and Game – Streambed Alteration Agreement
La Casse, Leonard J. Stipulation and Order Confirming Arbitration Award. Rustic Retirement v. California Department of Fish and Game. Case #SCUKCVPT 04-91863. November 17, 2004
- Mendocino County – Minor Subdivision Permit
Chaty, Dennis. County of Mendocino. Planning and Building Services Department. Negative Declaration. Case #MS21-2000. July 11, 2001.

Public Involvement

The State Water Resources Control Board, Division of Water Rights is the lead agency for the issuance of a Water Rights Permit and, in accordance with the California Environmental Quality Act (CEQA), must disclose the potentially significant impacts of the proposed project and identify feasible measures to mitigate those effects, where necessary.

The draft IS/MND will be circulated for a 30-day public and agency review pursuant to Section 15105(b) of the State CEQA guidelines. The State Water Resources Control Board will consider public and agency comments and will adopt findings concerning all environmental issues raised by the public and responsible agencies.

All comments must be received by the close of the comment period. Public comments should be submitted in writing to:

Eric Oppenheimer
State Water Resources Control Board
1001 I Street, 14th Floor
P.O. Box 2000
Sacramento, CA 95412-2000

Or emailed to:

Eric Oppenheimer [EOppenheimer@waterboards.ca.gov]

Be sure to include the Project Name, "Water Rights Application 31183", in the subject heading.

Discussion of existing protests filed on the Water Right Application

Five formal protests have been received on the proposed project:

Resolved

- Beckstoffer Vineyards filed a protest accepted on September 28, 2001 stating that the proposed operations may deplete water available for a Beckstoffer diversion under a prior permit. The applicant responded to the Beckstoffer protest in a letter to the State Water Resources Control Board dated October 26, 2001 and officially answered the protest on November 18, 2003. The applicant then agreed to include a term recognizing Beckstoffers prior rights and the protest was settled as described in the State Water Resources Control Board letter dated June 10 2004.

Unresolved

- Trout Unlimited filed a protest accepted on September 28, 2001 stating their concern over the proposed projects affects on the natural habitat and fishery resources of the Russian River. The applicant responded to the Trout Unlimited protest in a letter to the State Water Resources Control Board dated October 26, 2001 and officially answered the protest on November 18, 2003.
- The California Sportfishing Protection Alliance filed a protest accepted on September 28, 2001 stating concern over environmental issues related to Russian River fish populations. The applicant responded to the California Sportfishing Protection Alliance protest in a letter to the State Water Resources Control Board dated October 26, 2001 and officially answered the protest on November 18, 2003.
- The National Marine Fisheries Service filed a protest accepted on September 28, 2001 stating concern over environmental issues related to Russian River fish populations including coho salmon and steelhead trout. The applicant responded to the National Marine Fisheries Service protest in a letter to the State Water Resources Control Board dated October 26, 2001 and officially answered the protest on November 18, 2003.

- The California Department of Fish and Game (DFG) filed a protest accepted on September 28, 2001 stating concern over environmental issues related to fish and wildlife resources. The applicant responded to the DFG protest in a letter to the State Water Resources Control Board dated October 26, 2001 and officially answered the protest on November 18, 2003. The arbitrated Streambed Alteration Agreement was reached after consideration all of the concerns contained in the DFG protest.

In addition to the responses and official answers to the protests listed above, the court proceedings in the Streambed Alteration Agreement arbitration show that additional attempts were made by the applicant to settle the protests. The four protests listed above that are still unresolved are expected to be adequately addressed through the arbitrated Streambed Alteration Agreement with the Department of Fish and Game and this Proposed Mitigated Negative Declaration.

Chapter 3

Environmental Checklist

Environmental Factors Potentially Affected:

The environmental factors checked below would potentially be affected by this project, but all effects can be limited to a less-than-significant level, as indicated by the checklist on the following pages.

- | | | |
|--|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agricultural Resources | <input type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Hazards and Hazardous Materials | <input checked="" type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use/Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities/Service Systems | <input checked="" type="checkbox"/> Mandatory Findings of Significance | |

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they

reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
I. AESTHETICS.					
	Would the project:				
a.	Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c.	Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d.	Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

The project site is entirely contained within the project proponent's property and is located in the bottom of a drainage surrounded by ridges that obscure the area from view. Viewpoints from surrounding ridge tops are limited by distance and topography and are accessed via private property and as such are not readily visible to significant numbers of people. The proposed operations are not inconsistent with land use in the surrounding area and would not result in a significant change to the visual character or quality of the site.

- There are no designated scenic vistas in the project area. The project site is in a rural agricultural area surrounded on two sides by residential areas. More specifically the area is surrounded by open space, agricultural areas, and home sites.
- The project site is not located along a designated scenic highway. There would be no impact.
- The proposed operations are not inconsistent with land use in the surrounding area and would not result in a significant change to the visual character or quality of the site.
- No substantial lighting is planned to be installed in conjunction with the proposed project. The proposed project would not involve any improvements that would increase daytime glare.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
II. AGRICULTURAL RESOURCES.				
In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:				
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

- a. The project has been proposed for the purposes of irrigation, frost protection and heat control of 20 acres of vineyards, recreation, fish and wildlife enhancement and preservation, fire control and domestic use. The proposed operations will keep the property in agricultural usage and will not Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.
- b. The project will not conflict with existing zoning or a Williamson Act contract. This parcel is zoned Rangeland (RL 160) and is subject to an Agricultural Preserve contract. The purpose of lands zoned RL is to provide protection of lands needed for (A) the grazing of livestock, (B) the production and harvest of natural resources, and (C) the protection of such natural resources as watershed lands from fire, pollution, erosion, and other detrimental effects. Permitted uses under this zoning includes Family residential – single family, Animal raising – general agriculture, and row and field crops. The objectives of this project, therefore, conform to and will further, the purpose of the current zoning and its permitted uses.
- c. No farmland would be adversely affected directly or indirectly by the proposed project and would not be converted to non-agricultural use.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
III. AIR QUALITY.					
	When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a.	Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a non-attainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d.	Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e.	Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

The project area occurs in a rural setting east of Ukiah California, within the Mendocino County Air Quality Management District (MCAQMD).

- a.–e. Effects on air quality will be limited to short-term effects and those associated with the initial development of the project. Construction activities, such as excavation, grading, burning, and worker vehicle traffic, may generate temporary increases in emissions. However, the contractor would comply with MCAQMD's Regulations and any emissions would not violate any air quality standards or result in a cumulatively considerable net increase of any criteria pollutant.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES.					
	Would the project:				
a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
c.	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d.	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f.	Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

Potential impacts to biological resources have been previously addressed through the California Department of Fish (DFG) and Game Streambed Alteration Agreement process. A 1603 permit has been obtained for this project, through an arbitration order, that addresses fish and wildlife concerns and details mitigation measures (terms and conditions) required for the protection of biological resources. As described below, during the arbitration process the DFG presented to the court potential impacts the proposed project could have on onsite and downstream biological resources. The court then took into

consideration the DFG position and as detailed below, the court required that specific terms and conditions be applied to the project address DFG's concerns regarding biological resources. A copy of the arbitration agreement is attached to this document. All supporting documents, declarations, correspondence and materials presented to the court that were considered in the proceedings that resulted in the arbitration agreement and were considered during the preparation of this Initial Study are on file with the Division of Water Rights.

Botanical and biological assessments were conducted by consulting botanists and biologists of the project area. A Botanical Survey Report and Biological Reports were prepared in association with this project detailing the results of those assessments.

- a. During the planning stages for this project consulting biologist Ted Wooster conducted several surveys of the project area and downstream areas potentially affected by the proposed project. The findings of these surveys are included in the various biological assessment reports (dated December 22, 2000, May 10, 2004, May 21, 2004, and June 5, 2004) provided by Mr. Wooster. In these reports Mr. Wooster describes the wildlife species located during the survey visits and the potential impacts to listed species that could be affected downstream. Mr. Wooster concluded from his assessment of the project that there would be no significant environmental impact to any anadromous fish or fish habitat in the Sulphur Creek or Russian River drainage. Mr. Wooster also concluded that the proposed project would not result in any significant adverse impact to yellow or red-legged frogs and would have a beneficial effect upon fish and wildlife value by creating a unique habitat feature that could potentially be utilized by many species.

In contrast to the conclusions made by Mr. Wooster, during review of the Streambed Alteration Agreement for this project various environmental scientists and biologists working for or retained by the Department of Fish and Game submitted declarations identifying potential impacts to biological resources. These declarations have been submitted as supporting documents. Potential impacts identified in those declarations focused upon the alteration/modification of habitat for the aquatic and riparian species occurring on site and downstream of the project. These impacts include the following:

- Loss of approximately 1200 linear feet of Class II stream habitat.
- Reduction of stream flows resulting in increased stream temperatures and an interruption of fishery food supply.
- Interruption of coarse sediment supply (gravel).
- Introduction of non-native exotic nuisance species.

Listed species identified as being potentially affected include: Coho and Chinook salmon, steelhead, yellow-legged and red-legged frogs and western pond turtles

Mitigation measures were set forth by the court in the Streambed Alteration Permit Arbitration Agreement to reduce the potential impacts to wildlife species identified by the biologists to less than significant. **The mitigation measures include the following:**

- The applicant shall mitigate the loss of 1200 linear feet of stream habitat by restoration of riparian stream habitat on that portion of Sulphur Creek on his property above and below the proposed dam, in an amount up to 1800 linear feet.

- The loss of Oak Woodlands created by the construction of the dam shall be mitigated by the planting of two oak trees in the species composition for each oak tree taken in anticipation of this project and during the project.
- Diversion impoundment shall be limited to the period between December 15 and March 31. From April 1 to December 14 all natural flow shall be bypassed around or through the dam.
- During the December 15 to March 31 diversion season, 0.2 cubic feet per second (cfs) or the natural flow (whichever is less) shall be bypassed around or through the dam to maintain the aquatic resources that would exist in downstream reaches under unimpaired flows.
- The applicant shall not cause any change in the flows that bypass the reservoir after March 31st that result in a different rate and temperature as flows coming into the reservoir.
- For the life of the impoundment the applicant shall compensate for the loss of sediment input to the down stream watershed by purchasing appropriate sized gravels and delivering them to the base of the dam for stream replenishment.
- For the life of the impoundment the applicant shall exclude unpermitted exotic nuisance species, including but not limited to non native bullfrogs from the pond and not introduce any fish species resident to the Russian River and Lake Mendocino, i.e. bass and bluegill without a stocking permit from the Department of Fish and Game.

In order to protect sensitive habitats on and downstream of the project site and for the protection of fisheries and other aquatic resources, the following permit terms, substantially as follows, shall be included in any water right permits, licenses or orders issued pursuant to Application 31183.

- This permit does not authorize any act that results in the taking of a threatened, endangered, or candidate species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Game Code, §§ 205- 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 153 -1544). If a "take" will result from any act authorized under this water right, the Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.
- For the protection of fish and wildlife, under all bases of right, Permittee shall during the period from December 15 of each year through March 31 of each succeeding year bypass a minimum of 0.20 cubic foot per second (cfs) at Point of Diversion (POD).
- Under all bases of right Permittee shall bypass the total stream flow at POD from April 1 through December 14 of each year. The total stream flow at POD shall be bypassed whenever it is less than 0.20 cfs.
- Prior to the start of construction or diversion or use of water under this permit, the Permittee shall submit a Compliance Plan for approval by the Chief of the Division of Water Rights (Division Chief) that will demonstrate compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:

- a) A description of the physical facilities (i.e., outlet pipes, siphons, pipelines, bypass ditches, splitter boxes, etc.) that will be constructed or have been constructed at the project site and will be used to bypass flow.
- b) A description of the gages and monitoring devices that have been or will be installed to measure streamflow and/or reservoir storage capacity, including any necessary calibration.
- c) A time schedule for the installation and rating of these facilities.
- d) A description of the frequency of data collection and the methods for recording bypass flows and storage levels.
- e) An operation and maintenance plan that will be used to maintain all facilities in good condition.
- f) A description of the events that will trigger recalibration of the monitoring devices and the process that will be used to recalibrate.

Permittee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow bypass and monitoring facilities described in the Compliance Plan.

Permittee shall maintain all measurements and other monitoring required by this condition. Permittee shall provide measuring and monitoring records to the Division Chief within 15 days upon request by the State Water Resources Control Board, the Division Chief, or other authorized designees of the State Water Resources Control Board.

Diversion or use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

- Prior to the start of construction or diversion or use of water under this permit, the Permittee shall submit evidence to the Division Chief demonstrating that Permittee has complied with the pre-construction conditions set forth in the Award of Arbitration (per Fish and Game Code 1603) issued on November 17, 2004. Evidence shall include confirmation from the California Department Fish and Game (DFG) that a riparian habitat restoration plan has been prepared and submitted to DFG.

The riparian habitat restoration plan shall be implemented within two years of DFG's approval of the plan and prior to licensing of this permit.

- Permittee shall exclude bullfrogs and other non-native species from the reservoir authorized by this permit.
- At the direction of DFG, Permittee shall compensate for the loss of sediment input to the downstream watershed by placing gravel downstream of the dam for stream replenishment. Permittee shall report the annual quantity of gravel replenished to the stream and provide photographic evidence documenting gravel replenishment. Reports shall be submitted with all required Reports of Permittee, Reports of Licensee or whenever requested by the staff of the Division of Water Rights.
- Prior to the start of construction or diversion or use of water under this permit, Permittee shall obtain the any required permit from the U.S. Army Corps of Engineers (USACE) and file a copy with the Division of Water Rights. If a permit from the USACE is not necessary for this permitted project, the Permittee shall provide the Division of Water Rights with a letter from the USACE affirming that a permit is not needed.

- If the project requires a permit from USACE, Permittee shall obtain Clean Water Act section 401 Water Quality Certification from the State Water Resources Control Board prior to the start of construction or diversion or use of water under this permit.

- b. The proposed operations will affect riparian and oak woodland habitat. Although the project site contains no significant riparian vegetation, as detailed in the biological reports provided by Ted Wooster, the arbitration award for the Streambed Alteration Agreement requires that 1800 lineal feet of riparian stream habitat be restored on Sulphur Creek. In addition, the arbitration award for the Streambed Alteration Agreement requires that the loss of oak woodland habitat be mitigated by the planting of two oak trees in the species composition for each oak tree taken. See mitigation measures listed above for item IVa.

A botanical assessment conducted by consulting botanist Laurie Berry concluded that there are no listed plant species located on site that could potentially be affected by the proposed operations. Ms. Berry's findings are included in a report dated September 13, 2004.

- c. Federally protected wetlands as defined by Section 404 of the Clean Water Act have not been found to exist on or in the vicinity of the project area and therefore would not be impacted.
- d. The riparian and oak woodland habitat affected by the project could potentially provide a nursery site or movement corridor to native wildlife species. The arbitration award for the Streambed Alteration Agreement details measures (terms and conditions) that will ensure that any adverse effects will be mitigated and are less than significant. See mitigation measures listed above for item IVa.
- e. There are no local ordinances that could conflict with the proposed operation. Therefore, no impact is expected.
- f. The project site is not subject to an existing Habitat Conservation Plan or Natural Communities Conservation Plan. Therefore, the project would have no impact.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
V. CULTURAL RESOURCES.					
	Would the project:				
a.	Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
b.	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
d.	Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>

Discussion

The Mendocino County Archeological Commission and the Historic Resources Information System Northwest Information Center determined the project area to be located within an archeological sensitive zone. An assessment of the cultural resources was conducted by professional consulting archeologist Jay M. Flaherty. The assessment included review of available literature, and a check of prior surveys results on file with the Historic Resources Information System Northwest Information Center. The records check revealed no archaeological or ethnographic sites had been recorded within the boundaries of the project. Several other archeological sites had been recorded in the project vicinity however and thus a survey was conducted on February 7 & 8, 2001. No cultural resources were discovered within the project boundaries as a result of the survey. Mr. Flaherty prepared a report dated March 9, 2001 detailing the findings and survey methodology.

a-d. The Mendocino County Archeological Commission accepted the survey conducted by Mr. Flaherty on March 14, 2001 and the Division gave archeological clearance for the proposed project on March 12, 2002 with permit terms. **The permit terms/mitigation measures state:** that in the event that archeological resources are encountered during the construction on the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 2.12 of the Mendocino County Code relating to archeological discoveries have been satisfied.

There is the possibility that subsurface archeological deposits could be present and accidental discovery could occur. The following permit term, substantially as follows, shall be included in any water right permit or license issued pursuant to Application 31183:

- Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened

midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Division Chief shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures.

- Proposed mitigation measures shall be submitted to the Division Chief for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Division Chief.

There is also the possibility that an unanticipated discovery of human remains could occur. The following permit term, substantially as follows, shall be included in any permit or license issued pursuant to Application 31183:

- If human remains are encountered, then the Permittee shall comply with Section 15064.5 (e) (1) of the CEQA Guidelines and the Health and Safety Code Section 7050.5. All project-related ground disturbance within 100 feet of the find shall be halted until the county coroner has been notified. If the coroner determines that the remains are Native American, the coroner will notify the Native American Heritage Commission to identify the most-likely descendants of the deceased Native Americans. Project-related ground disturbance, in the vicinity of the find, shall not resume until the process detailed under Section 15064.5 (e) has been completed and evidence of completion has been submitted to the Division Chief.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
VI. GEOLOGY AND SOILS.				
Would the project:				
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2. Strong seismic ground shaking?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4. Inundation by seiche, tsunami or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6. Flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
7. Wildland fires, including where wildlands are adjacent to urbanized areas and where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
c. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

A geological investigation of the project area has been conducted by a registered geologist and an engineering geology report has been prepared detailing the results of that investigation.

a. While a portion of the property is located within an Alquist-Priolo Earthquake Fault Zone, the proposed operations are located outside of the "Special Study Zone" and have no potential to rupture a known earthquake fault. The results of the geological investigation indicate that the primary geological hazard at the site is seismic shaking during an earthquake. The following geotechnical engineering recommendations included in the geology report will ensure that the proposed operations would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking:

- The downstream slope of the dike should be no steeper than 2H:1V. The upstream slope of the dike should be no steeper than 3H:1V. Any other cut and fill slopes in the pond should be no steeper than 3H:1V.
- The existing ground surface at the dike footprint should be excavated at least four feet before fill placement begins.
- All roots should be pulled out and no stumps or large roots should be left after grubbing.
- All fill to be placed at the site during construction is considered to be engineered fill. Surfaces to receive engineered fill must be scarified to a minimum depth of 6 inches and compacted to a minimum relative compaction of 90%. In general, soil from the reservoir area can be used as engineered fill providing the following requirements are met:
 - Surface strippings cannot be used as fill.
 - The fill material must be free of organic matter and other deleterious substances.
 - The fill must not contain boulders over 6" in dimension and not more than 10% of the fill shall consist of cobbles or boulders larger than 3". All boulders must be removed from the site.
 - Fill must be compacted at a moisture content of at least 2% over optimum moisture content and to at least 90% relative compaction. Fill material must be spread in uniform lifts not exceeding 8 inches in uncompacted thickness. Before compaction begins, the fill shall be brought to a moisture content that will permit proper compaction by either aerating the material if it is too wet or spraying the material with water if it is too dry. Each lift shall be thoroughly mixed before compaction to ensure a uniform distribution of water content.
- All grading work must be continuously observed by a qualified engineering technician. Filed density tests must be taken during grading in order to evaluate the adequacy of the contractors work.
- The upper 1-2 feet of surface soil in the pond area should be excavated and set aside for use as a pond liner. Once the pond excavation is complete the silty soil should be placed in a one foot thick layer across the excavated area in the pond and on the upstream face of the dike. The soil should be compacted to the same specifications as for engineered fill given above.
- It is recommended that a chimney drain be constructed within the dike. The chimney drain can be located at the centerline of the crest. The drain should extend to a depth approximating the original ground elevation. The drain should be about 12-18" wide. The drain should outlet at a convenient location downstream of the toe. It is recommended that a 6" perforated PVC Schedule 40 Pipe be placed within 12 inches of the bottom of the drain. Class 2 Permeable Material should be used as backfill.
- It is recommended that a blanket drain be placed under the downstream portion of the dike. The blanket drain should consist of Class 2 Permeable Material placed in a two foot thick layer. The blanket drain should extend from the Internal Drain discussed above to the downstream toe. The blanket drain should be carried up the sides to an elevation of 110 feet.

No landslides or unstable slopes were detected during the geological investigation. The proposed dam has been designed and engineered by a licensed Civil Engineer to ensure the stability of the dam. The dam has been designed with a bypass to prevent overtopping. The small amount of water contained behind the dam (26 acre feet) would not constitute a significant risk from flooding. Water contained in the proposed reservoir is intended in part to provide protection against wildland fire.

b. Soil erosion was identified as a potential significant effect of the project in the review of the Streambed Alteration Agreement. The arbitration award for the Streambed Alteration Agreement mandates that **the following 16 erosion control conditions/mitigation measures** be implemented during the construction phase of the project in order to ensure no significant soil erosion occurs and ensure that the impacts are less than significant:

1. Construction shall be confined to the period of July 15 to October 31. If the Operator needs more time to complete the authorized activity, the work period may be extended on a day to- day basis by Corrine Medlin at 707-944-5526, or, Linda Hanson at 707-944-5562.

2. The Operator/Contractor shall provide DFG a detailed construction schedule. The schedule shall identify the approximate beginning and completion date for each activity within the stream zone. The construction schedule shall be sent via mail or FAX to the Regional office at: P. O. Box 47, Yountville, CA 94599, FAX (707) 944-5595. Refer to Notification 2001-0181 when notifying DFG. The names, phone numbers, cellular phone numbers, pager numbers of key personnel shall be included in this notification.

3. To the extent that any provisions of this Agreement provide for activities that require the Operator to traverse another owner's property, such provisions are agreed to with the understanding that the Operator possesses the legal right to so traverse. In the absence of such right, any such provision is void.

4. The work period for completing the work shall be restricted to periods of low or no stream flow and dry weather. Operations shall not begin unless a no precipitation forecast is obtained covering the entire construction phase and the time necessary to implement erosion control measures. This forecast shall be documented upon request of DFG.

5. No phase of the project may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm event if that construction phase may cause the introduction of sediments into the stream. Seventy-two-hour weather forecasts from the National Weather Service shall be consulted prior to start up of any phase of the project that may result in sediment runoff to the stream.

6. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. Vegetation outside the construction corridor shall not be removed or damaged without prior consultation and approval of a Department representative. Where feasible, hand tools (chain saw, etc.) shall be used to trim vegetation to the extent necessary to gain access to the work sites. All cleared material/vegetation shall be removed out of the riparian/stream zone.

7. Upon completion of operations and/or onset of wet weather, all disturbed earthen materials shall be seeded using native or non-invasive mixes and mulched with weed-free straw or native materials.

8. During construction and upon completion of construction all exposed/disturbed areas within the project site shall be stabilized to the greatest extent possible. Erosion control measures, such as silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and broadcasted straw shall be used wherever silt laden water has the potential to leave the work site and enter State waters. Erosion control measures shall be monitored during and after each storm event. Modifications, repairs and improvements to erosion control measures shall be made whenever needed. Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation shall be halted until effective Department approved control devices are installed, or abatement procedures are initiated. DFG may take enforcement action if appropriate turbidity and siltation control measures are not deployed.

9. Staging and storage areas for equipment, materials, fuels, lubricants and solvents, shall be located outside of the stream channel and banks. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the stream shall be positioned over drip-pans. Any equipment or vehicles driven and/or operated within or adjacent to the stream must be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life. Vehicles must be moved away from the stream prior to refueling and lubrication.

10. All construction debris and associated materials shall be removed from the work site upon completion of this project. Any equipment or vehicles driven and/or operated within or adjacent to the site shall be cleaned of all external oil, grease, and materials that, if introduced to water, could be deleterious to aquatic life, wildlife or riparian habitat. Stationary equipment, such as motors, pumps, generators, and welders, located within or adjacent to the stream/lake shall be positioned over drip-pans.

11. The Operator shall provide DFG with a single weekly status report on all activities authorized by this Agreement. The status report shall list the schedule of events (beginning dates, work in progress, and completion dates). The status report shall be submitted to DFG every Monday until the list of authorized activities is complete or there are scheduled periods of inactivity. The status report shall be sent via e-mail transmittal to cgravy@dfg.gov.

12. No equipment shall be operated within the flowing stream.

13. Creosote-treated wood products shall not be used in State waters.

14. Building materials and/or construction equipment shall not be stockpiled or stored where they could be washed into the water or where they will cover aquatic or riparian vegetation.

15. Debris, soil, silt, bark, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the State. Any of these materials, placed within or where they may enter the River, by Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately.

16. The contractor shall not dump any litter or construction debris within the riparian/stream zone. All such debris and waste shall be picked up daily and properly disposed of at an appropriate site.

Permit terms, substantially as follows, will be included in any water right permit issued pursuant to Application 31 183 to ensure that design plans and construction activities involving the proposed reservoir and associated dam follow recommendations made in the geotechnical report and to ensure that that the project is constructed in accordance with the above-listed mitigation measures:

- Prior to diversion or use of water under this permit, Permittee shall submit evidence, to the Division Chief that demonstrates that the project has been constructed in accordance with the recommendations provided in the December 15, 2000 Geotechnical Engineering Investigation Report prepared for this project. Evidence shall include certification by a registered Engineer or registered Geologist that the project was constructed in accordance with the recommendations in the December 15, 2000 Geotechnical Engineering Investigation Report or that equally protective measures were implemented.
- Project construction will occur only in accordance with the Erosion Control Conditions set forth in Exhibit A of the Award of Arbitration (per Fish and Game Code 1603) issued on November 17, 2004.

c. Site soils have not been identified as having landslide, subsidence, liquefaction, or collapse characteristics. The project area is gently sloped and exhibits no characteristics indicative of landslide hazards. There would be no impact.

d. The proposed project would not take place on expansive soils. There would be no impact.

e. The proposed project does not involve the use of septic tanks or alternative wastewater systems. The Negative Declaration adopted by Mendocino County, which includes the dam, reservoir and vineyard in its project description requires that a site evaluation report be completed by a qualified individual and submitted to the Division of Environmental Health that demonstrates compliance with the North Coast Regional Water Quality Control Board's "Basin Policy for On-site Waste Treatment and Disposal" and Mendocino County Division of Environmental Health's "Land Division Requirements." There would be no impact.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS.					
	Would the project:				
a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c.	Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d.	Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e.	Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f.	Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
h.	Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

Hazardous material is defined by the California Environmental Protection Agency, Department of Toxic Substances Control (DTSC), as a material that poses a significant present or potential hazard to human health and safety or the environment if released because of its quantity, concentration, or physical or chemical characteristics (26 California Code of Regulations 25501).

- a–b. During initial operations, hazardous materials such as solvents, and equipment oils and lubricants would be present on-site. Operations will be carried out with equipment that use petroleum products usually in the form of petroleum based fuels and oils. The use of equipment that utilizes these products would not create a significant hazard to the public or the environment.
- c. There are no schools within ¼ mile of the project area. The closest school to the project site is Oak Manor School located approximately 1¼ of a mile away.
- d. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5
- e–f. According to the Mendocino County General Plan, the proposed project is not located in an airport land use plan area. The closest public airstrip is the Ukiah municipal airport, located approximately 2¼ air miles southwest of the project site.
- g. The proposed project will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.
- h. The proposed project will reduce fire hazard by providing improved access and by providing water sources for fire fighters. The Project would have no impact.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY.					
	Would the project:				
a.	Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
c.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
e.	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f.	Otherwise substantially degrade water quality?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
g.	Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
h.	Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
i.	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the levee or dam failure?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
j.	Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

A Water Availability and Cumulative Flow Impairment Index Analysis has been prepared for this project by consulting hydrologist Matt O'Conner and a report dated October 7, 2005 was submitted to the State Water Resources Control Board who found that there is water available for diversion.

- a. The proposed project will not violate any water quality standards or waste discharge requirements. Construction operations will occur during appropriate periods when there is no flowing water and no chance for any soil or other material to be discharged into a watercourse. The proposed reservoir will act as a sediment trap and will capture natural erosion above the site resulting in improved water quality conditions.
- b. The proposed reservoir will be recharged utilizing surface runoff and rainwater. Ground water sources will not be utilized as a part of this project. The Water Availability and Cumulative Flow Impairment Index Analysis submitted as a supporting document provides a detailed discussion of the water supply and demand as a result of the proposed operations. This analysis revealed that there will be sufficient flows at three points of interest (POI) downstream of the project area and that there is water available for diversion. The analysis consisted of utilizing two methods to obtain estimates of mean runoff for the project area. The Regional Runoff method utilized stream gauging records to determine that the estimated mean runoff for POI 1 is 401 acre feet /year, 5569 acre feet per year for POI 2 and 5662 acre feet per year for POI 3. The Rational Runoff method utilized methods described in the DWR guidance memorandum to determine that the estimated mean runoff for POI 1 is 499 acre feet /year, 8280 acre feet per year for POI 2 and 8418 acre feet per year for POI 3. A Cumulative Flow Impairment Index (CFII) Analysis was then conducted to ensure sufficient flows were available to meet anticipated demands. The analysis determined that the CFII at POI 1 is 12.3%, 0.9% at POI 2 and 0.9% at POI 3. Following review of the analysis the State Water Resources Control Board concurred in their June 5, 2006 letter that the analysis was complete and water is available for diversion
- c-d. The proposed operations will alter drainage patterns of the area by temporarily impounding water in the unnamed tributary to Sulphur Creek. The proposed dam has been designed to prevent substantial erosion, siltation or flooding. The temporary water storage would have a less than significant impact.
- e. The proposed dam is intended to capture excess runoff. Therefore no impact to storm water drainage systems is expected.
- f. Under Section 303(d) of the 1972 Clean Water Act, states, territories and authorized tribes are required to develop a list of water quality limited segments. These waters on the list do not meet water quality standards, even after point sources of pollution have installed the minimum required levels of pollution control technology. The law requires that these jurisdictions establish priority rankings for water on the lists and develop action plans, called as Total Maximum Daily Loads (TMDL), to improve water quality. The watershed containing the proposed project (Big Sulphur Creek #11426023) is on this 303(d) list as being impaired for sediment and temperature. The priority given for TMDL implementation is medium for sedimentation and low for temperature. The construction of and operation of the proposed dam placed within a Class II watercourse has the potential to degrade water quality. The disturbance to the stream channel and surrounding riparian zone during construction could introduce suspended sediment into the water column. Additionally, impoundment of water stored in the on-stream reservoir could potentially result in increased water temperatures downstream of the proposed project.

Mitigation measures intended to address potential sedimentation and temperature issues have been developed and are listed elsewhere throughout this initial study. Mitigation measures listed in Section IV (Biological Resources) above limit the time period when flows can be diverted and require flows to be bypassed in order to reduce the potential for increased downstream water temperatures during low flow conditions. Mitigation measures listed in Section VI (Geology & Soils) above restricts the time period for operations to those times when there is low or no stream flow and dry weather, limits the area of disturbance to the minimum required for completion of operations, and establishes erosion

control measures to be implemented that will limit the potential impacts from sedimentation to less than significant.

In addition to the mitigation measures listed elsewhere, permit terms, substantially as follows, will be included in any water right permit issued pursuant to Application 31183 to ensure that construction and operation of the project will not adversely affect water quality:

- Permittee shall prevent any debris, soil, silt, cement that has not set, oil, or other such foreign substance from entering into or being placed where it may be washed by rainfall runoff into the waters of the State.
- In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, Permittee shall file a report pursuant to Water Code section 13260 and shall comply with any waste discharge requirements lawfully imposed by the California North Coast Regional Water Quality Control Board or by the State Water Resources Control Board.
- Permittee shall not conduct construction activities within 50 feet of a watercourse from November 1 of each year to July 14 of the succeeding year.
- A 25 feet wide setback shall be established on each side of any Class II or Class III watercourse (as defined by Cal. Code Regs., tit. 14, §§ 895.1, 916.5) that flows through the place of use authorized by this permit. The buffer shall be measured from the centerline of the watercourse. No ground disturbing activities, with the exception of road crossings, shall occur within a buffer zone. Any road crossings within the setback shall be aligned perpendicular to the direction of flow in the watercourse at the location of the crossing.

Permit terms, substantially as follows, will be included in any water right permit issued pursuant to Application 31183 to ensure that downstream water right holders, water quality, and aquatic resources are protected by ensuring that water is only diverted in accordance with the project as described in this Initial Study:

- Based on the information contained in the Division of Water Rights files, riparian water has not been used on the place of use. Diversion of water is not authorized under this permit if in the future Permittee diverts water under riparian right. With the Division Chief's approval, Permittee may use water under basis of riparian right on the authorized place of use, provided that Permittee submits reliable evidence to the Division Chief quantifying the amount of water that Permittee likely would have used under the basis of riparian right absent the appropriation authorized by this permit. The Division Chief is hereby authorized to approve or reject any proposal by Permittee to use water under the basis of riparian right on the place of use authorized by this permit.
- The water appropriated shall be limited to the quantity that can be beneficially used and shall not exceed a total of 49.5 acre-feet per annum to be collected from December 15 of each year to March 31 of the succeeding year.
- Before storing water under this permit, Permittee shall install a staff gage in the reservoir, satisfactory to the Division Chief, for the purpose of determining water levels in the reservoir. Permittee must maintain the staff gage in operating condition as long as water is being diverted or used under this permit. Permittee shall record the staff gage readings on the last day of each month.

- Permittee shall record the maximum and minimum water surface elevations and the dates that these water levels occur each water-year between October 1 and September 30. Permittee shall maintain a record of all staff gage readings and shall submit these records to the Division with all required Reports of Permittee, Reports of Licensee or whenever requested by the staff of the Division of Water Rights.
- Prior to withdrawal of water from the reservoir authorized by this permit, Permittee shall install in-line flow meters satisfactory to the Division Chief that measure the instantaneous rate and the cumulative amount of water withdrawn from the reservoir at Point of Diversion.
- The in-line flow meter must be maintained in operating condition as long as water is being consumptively used under this permit. Permittee shall maintain a record of the end-of-the-month meter readings and of the days of actual diversion, and shall submit these records to the Division with all required Reports of Permittee, Reports of Licensee, or whenever requested by the staff of the Division of Water Rights.

g-h. The proposed project would not involve constructing housing or structures in the 100-year floodplain. No impact is expected.

i-j. The proposed dam has been designed and engineered by a licensed Civil Engineer to ensure the stability of the dam. Please see the mitigation measures listed above under item VIa that will ensure the stability of the dam. The small amount of water contained behind the dam (26 acre feet) would not constitute a significant risk from flooding.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
IX. LAND USE AND PLANNING.					
	Would the project:				
a.	Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c.	Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

The project site is located in the Russian Basin planning area of the *Mendocino County General Plan*. The Ukiah Valley Area Plan classifies the area as "RL-Rangeland."

- The project area is entirely contained within the project proponent's property in a rural setting outside of any established community. The project will not physically divide the community and it would have no impact.
- This parcel is zoned Rangeland (RL 160). The purpose of lands zoned RL is to provide protection of lands needed for (A) the grazing of livestock, (B) the production and harvest of natural resources, and (C) the protection of such natural resources as watershed lands from fire, pollution, erosion, and other detrimental effects. Permitted uses under this zoning includes Family residential – single family, Animal raising – general agriculture, and row and field crops. The objectives of this project, therefore, conform to the purpose of the current zoning and its permitted uses.
- There are no known habitat conservation plans or natural community conservation plans that the proposed operations might be in conflict with, therefore there would be no impact.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
X.	MINERAL RESOURCES.				
	Would the project:				
a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b.	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

The primary extractive resource in Mendocino County is aggregate resources. Aggregate resources in the county currently are derived from several locations. The main sources are along the Garcia, Eel, Russian and Ten Mile Rivers, and at two quarries near Ridgewood Summit between Willits and Ukiah.

a–b. Because there are no identified mineral resources within the vicinity of the proposed project no impacts are expected.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
XI. NOISE.					
	Would the project:				
a.	Expose persons to or generate noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b.	Expose persons to or generate excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c.	Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d.	Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e.	Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f.	Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

The Mendocino County general plan in its policies announces that, "Lumbering and agriculture are basic to the economy of Mendocino County and necessary noise associated with them must be tolerated," and thereby sets the tone (Mendocino County General Plan, Noise Element, Policy No. 3, 1981).

In its discussion of the topic, the Mendocino County General Plan provides tabular scales for Land Use Compatibility for Community Noise Environments and Noise Compatibility of Adjacent Land Uses. In general, agricultural uses, although generating noise, are compatible with most adjacent land uses, provided that no extenuating circumstance requires otherwise, e.g. the use of wind machines (Mendocino County General Plan, page VI-70, revised December 9, 1991).

a., c, d. The proposed project would result in a temporary increase in noise during the initial construction phase. These operations may result in short-term increases in noise levels that may exceed established noise standards on the project site. The project site however, is located in the bottom of a draw and is surrounded by ridges that would act as natural sound barriers.

For planning purposes it should be recognized that there are no residences located near the project area that would be considered noise-sensitive. Because any increase in noise levels will be limited to the initial construction period and will be contained to the construction site, there appears to be no impact.

- b. Construction activity associated with operations may result in minor ground vibration. Vibration from construction activity is typically below the threshold of perception when the activity is more than about 50 feet from receiver. The vibration from grading activity is not considered significant. Blasting will not be required. Consequently, there appears to be no impact.
- e-f. The proposed project is not located in an airport land use plan area or within 2 miles of a public or public use airport. There would be no impact.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
XII. POPULATION AND HOUSING.					
	Would the project:				
a.	Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b.	Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c.	Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

The proposed project will neither reduce existing levels of available housing nor require an expanded permanent workforce that will require additional housing in the locale.

- The project is not expected to have any influence on growth trends in the area and would not induce additional population growth. There would be no impact.
- The proposed project would not require displacement of existing housing. There would be no impact.
- The proposed project would not require displacement of any people. There would be no impact.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
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XIII. PUBLIC SERVICES.

Would the project:

- a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

- a -e . The proposed project involves the construction of a dam and 26 acre on-stream reservoir to store water for the purposes of irrigation, frost protection and heat control of 20 acres of vineyards, recreation, fish and wildlife enhancement and preservation, fire control and domestic use and would not create a need for new facilities to maintain acceptable service ratios, response times, or other performance objectives for fire protection and police services. The proposed project would not result in any adverse physical impacts associated with the provision of new or physically altered public facilities. The project would not create new residential areas and therefore would not create any new demand for schools, parks, or other public facilities. A letter dated 9/25/03 from CDF Unit Chief Loyde Johnson states that the proposed reservoir would be a valuable resource for fire protections purposes. There would be no adverse impacts.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
XIV. RECREATION.				
Would the project:				
a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

- a. The proposed project would not create any new residential land uses. An increase in the use of existing recreational facilities, including parks, is not anticipated. There would be no impact.
- b. The proposed project does not include or require the construction or expansion of recreational facilities. There would be no impact.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC.				
Would the project:				
a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b. Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

In the Negative Declaration adopted by Mendocino County, which includes the proposed dam, reservoir and vineyard in its project description, effects on Transportation/Traffic were evaluated and mitigation measures developed to ensure the impacts are less than significant.

- A minor increase in traffic is expected during construction operations associated with this project. The increase in traffic however is expected to be such a minor increase (2-3 additional trips per day) that it would not constitute a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections.
- The Mendocino County Transportation Authority and California Department of Transportation are the agencies responsible for establishing level of service standards for the roads to be utilized by the proposed project. The maximum number of trips generated by this project during any one period will not exceed the established standards.

- c. The traffic to and from the site will be limited to vehicular traffic and will not result in a change in air traffic patterns.
- d. The proposed project will not result in a substantial increase in hazards because of a design feature or incompatible uses. No new intersections or changes to a public roadway are proposed and all construction equipment will be utilized according to all state and local traffic laws.
- e. Road access to the project area is sufficient for vehicular access for emergency purposes. While there will be a very slight increase in traffic during the construction period, no impacts are expected on emergency services to the public.
- f. The proposed project would not create a need for any additional parking and would not remove existing parking, and therefore no impact is expected.
- g. The proposed project is not contrary to vehicular policies and because of its location, it is expected to have no impacts.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS.					
	Would the project:				
a.	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
b.	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
c.	Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
e.	Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
g.	Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion

The Regina Water District provides water service to the property. No public services agency provides wastewater collection and treatment, or storm water drainage services to this rural area. The project area is served by individual wells septic tanks and leach fields.

a–b. The proposed project does not involve the use of septic tanks or alternative wastewater systems. The Negative Declaration adopted by Mendocino County, which includes the proposed dam, reservoir and vineyard in its project description requires that a site evaluation report be completed by a qualified individual and submitted to the Division of Environmental Health that demonstrates compliance with the North Coast Regional Water Quality Control Board's "Basin Policy for On-site Waste Treatment and Disposal" and Mendocino County Division of Environmental Health's "Land Division

Requirements.” The house, together with other improvements, including the septic system anticipated by the county have been built and operated successfully for three years. There would be no impact.

- c. The proposed dam intends to capture storm drainage from the surrounding area and therefore a decrease in storm drainage should be expected. No new storm water drainage facilities or expansion of existing facilities is required.
- d. Operation of the proposed project would not require use of a significant amount of water in addition to what is currently developed on site; therefore, it would not require expanded entitlements. There would be no impact.
- e. The proposed project involves the construction of a small dam and reservoir; it would not result in an increased amount of wastewater. There would be no impact.
- f–g. Solid waste present on-site during construction would be stored and disposed of according to all relevant federal, state, and local statutes. Due to the small scale of the project excessive solid waste is not expected to be generated. No impact is expected.

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE					
a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
b.	Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
c.	Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>

Discussion

As part of this project and initial study an Erosion Control Plan, Biological Assessment, Botanical Survey Report, Water Availability Analysis Report, Archeology Survey Report and an Engineering Geology Report were all prepared. These documents all evaluated the potential impacts of the proposed project and provide mitigation measures that will reduce the impacts to less than significant.

The Negative Declaration adopted by Mendocino County, for a minor subdivision, which includes the elements of this project and the Department of Fish and Game Streambed Alteration Agreement obtained through arbitration for this project both also require the implementation of mitigation measures that will ensure less than significant impacts. Issues concerning this project, were considered in the Streambed Alteration Agreement arbitration proceedings and the permit was issued with conditions.

In addition to the mitigation measures included as part of the Streambed Alteration Agreement process, permit terms have also been developed to mitigate potentially significant environmental impacts.

The mitigation measures contained in the various Assessments, Reports, and Agreements and the permit terms that reduce the impacts to less than significant have been incorporated into this Initial Study and are listed above within the appropriate sections of this chapter.

Determination

On the basis of this initial evaluation

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. ☐

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared. ☒

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required. ☐

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed. ☐

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required. ☐

Prepared By:
North Coast Resource Management: Jeff Longcrier

Jeff Longcrier Date

Reviewed By: _____

Eric Oppenheimer, Chief Date
Russian River Watershed Unit

Steven Herrera, Chief Date
Water Right Permitting Section

Authority: Public Resources Code Sections 21083, 21084, 21084.1, and 21087.

Reference: Public Resources Code Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 21083.1 through 21083.3, 21083.6 through 21083.9, 21084.1, 21093, 21094, 21151; *Sundstrom v. County of Mendocino*, 202 Cal. App. 3d 296 (1988); *Leonoff v. Monterey Board of Supervisors*, 222 Cal. App. 3d 1337 (1990).

Chapter 4

References

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- Flaherty, Jay. *Cultural Resource Survey of 320+/- acres, MS 21-00, Near Ukiah, Mendocino County, California*. Archaeological Services Inc. March 9, 2001.
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- Wooster, Theodore W. Various Biological Survey Reports. Dated December 22, 2000, May 10, 2004, May 21, 2004, and June 5, 2004

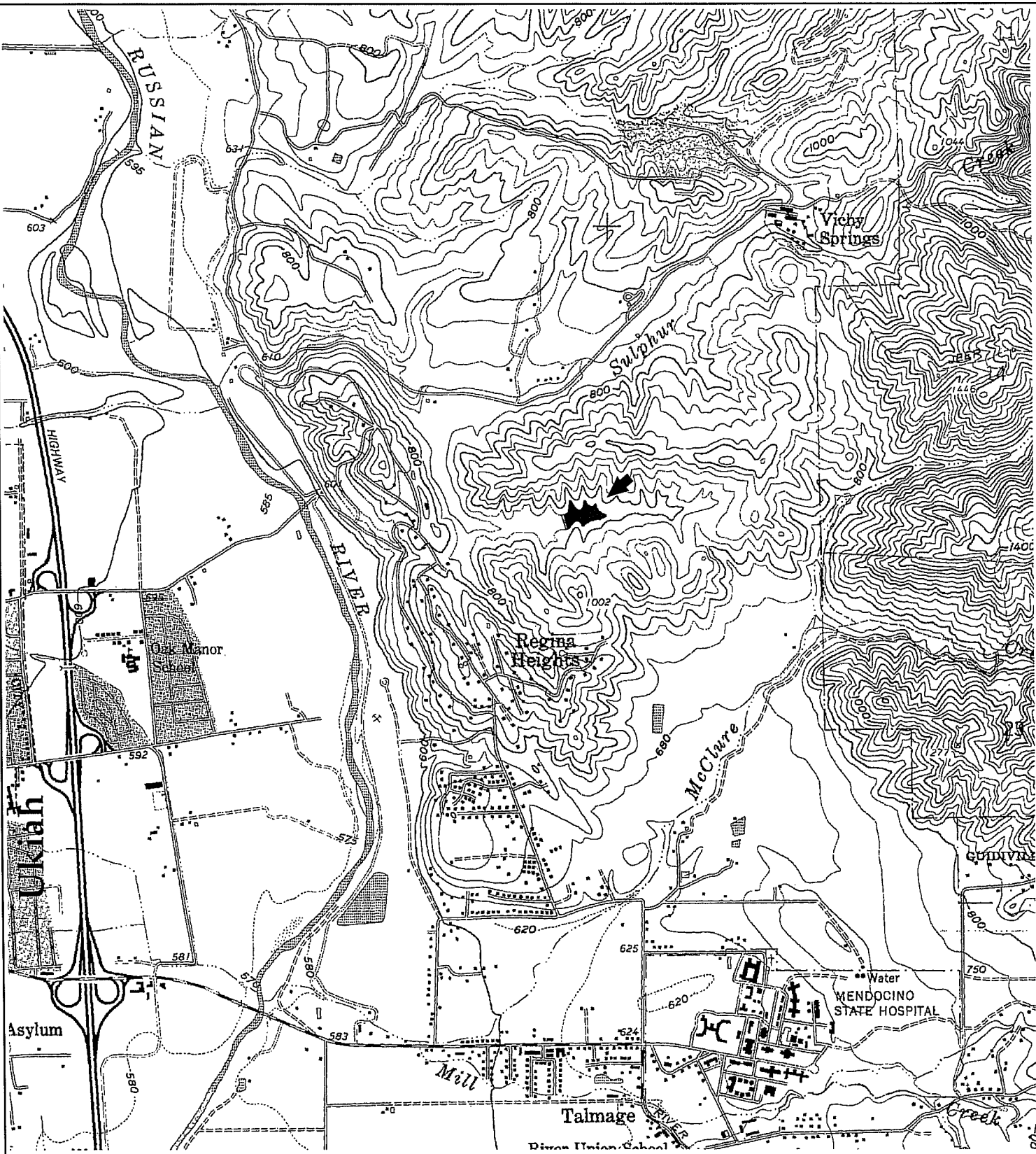
List of Responsible Agencies Potentially Interested in Providing Input

California Department of Fish & Game
Northern Region
601 Locust Street
Redding, CA 96001
(530) 225-2300

California Department of Fish & Game
Bay Delta Region
PO Box 47
Yountville, CA 95499
(707) 944-5500


National Marine Fisheries Service
Southwest Region
777 Sonoma Ave. Room 325
Santa Rosa, CA 95404
(707) 575-6050

Mendocino County
Department of Planning
501 Low Gap Road, Room 1440
Ukiah, CA 95482
(707) 463-4281

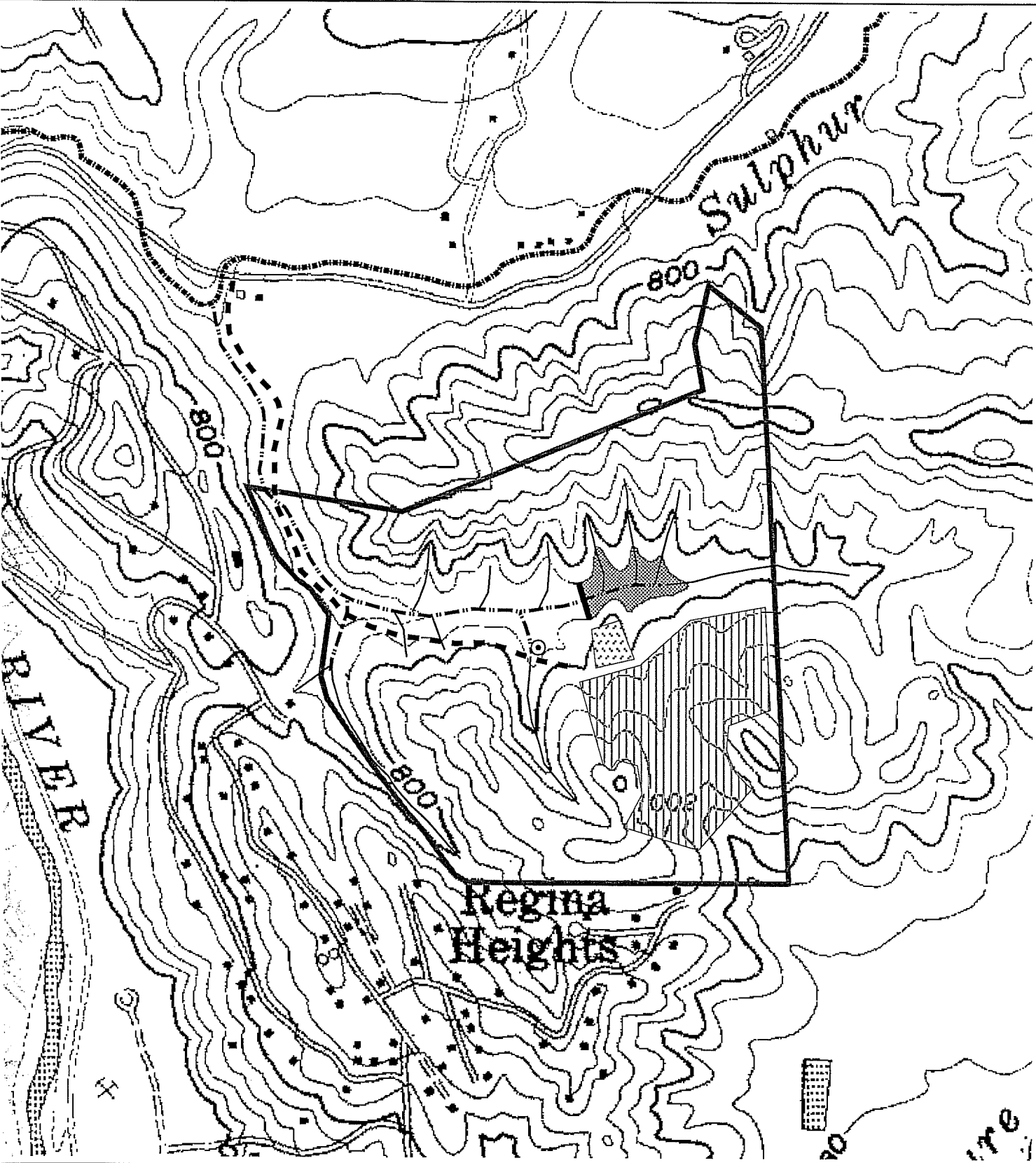


Rustic Retirement, LLC.
Water Rights Application 31183
Vicinity Map

August 13, 2008

Proposed reservoir site: 

Project located in a portion of Lot 90
of the Yokayo Rancho
Ukiah 7.5' USGS Quadrangle




- Proposed Reservoir: ●
- Proposed Dam: █
- House Site: ▣
- Place of Use: ▨
- Access Road: - - - - -
- Property Boundary: _____
- Class I Stream: - - - - -
- Class II Stream: - - - - -
- Class III Stream: _____
- Spring: ○

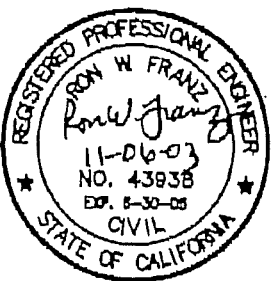
Rustic Retirement, LLC.
 Water Rights Application 31183
 Project Map

August 13, 2008

Project located in a portion of Lot 90
 of the Yokayo Rancho
 Ukiah 7.5' USGS Quadrangle

Scale 1:9,600
 1" = 800'





Prepared By:

Ron W. Franz RCE, PLS
2335 Appalinaris Drive
Ukiah, CA 95482
707-462-1087

NOTE:

This map was prepared from the Ukiah and the Cow Mountain 7.5 minute quad maps. Contour lines are not shown.

DRAINAGE AREA DATA:

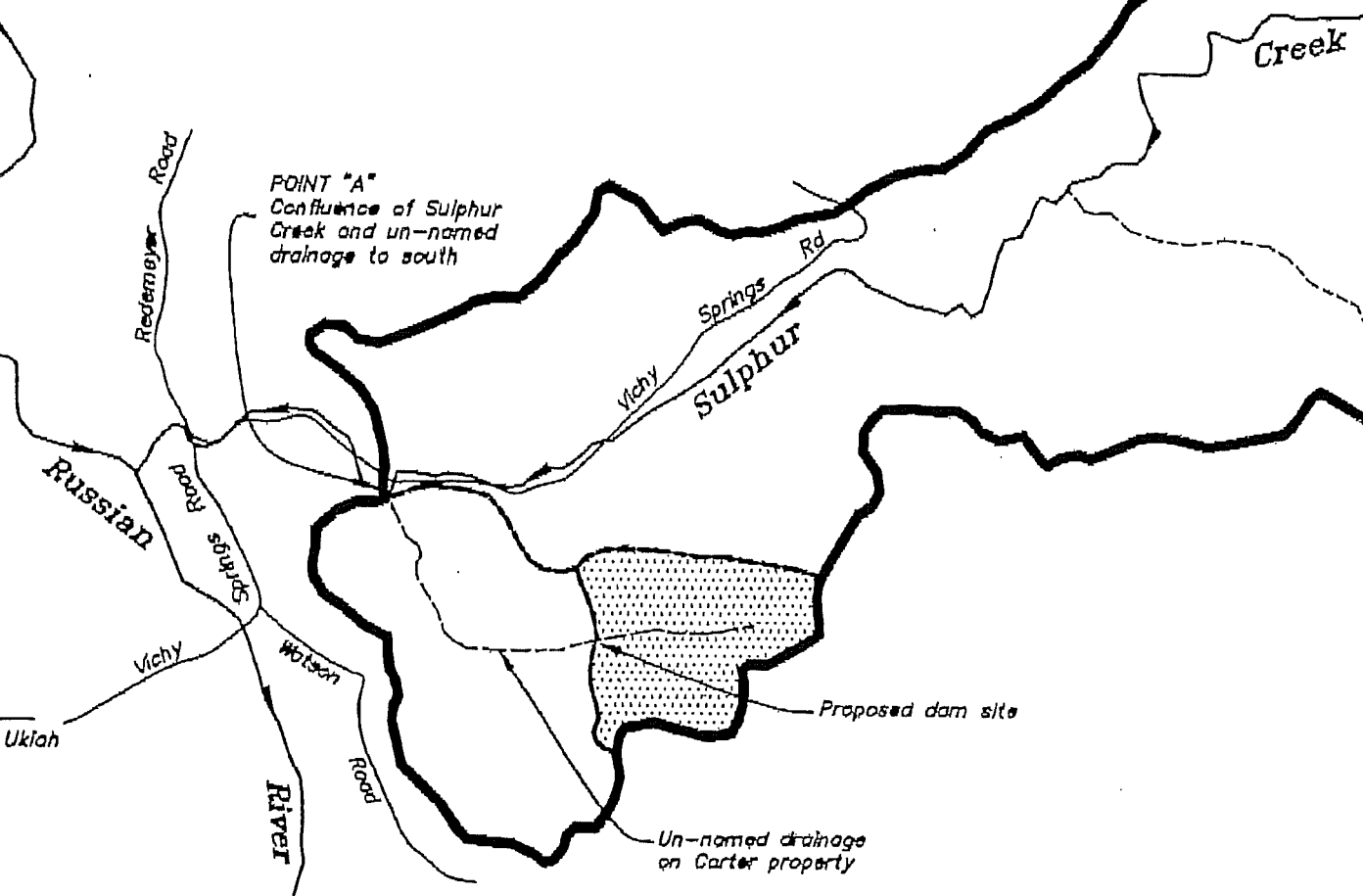
Sulphur Creek drainage area above
POINT "A" = 6.70 square miles

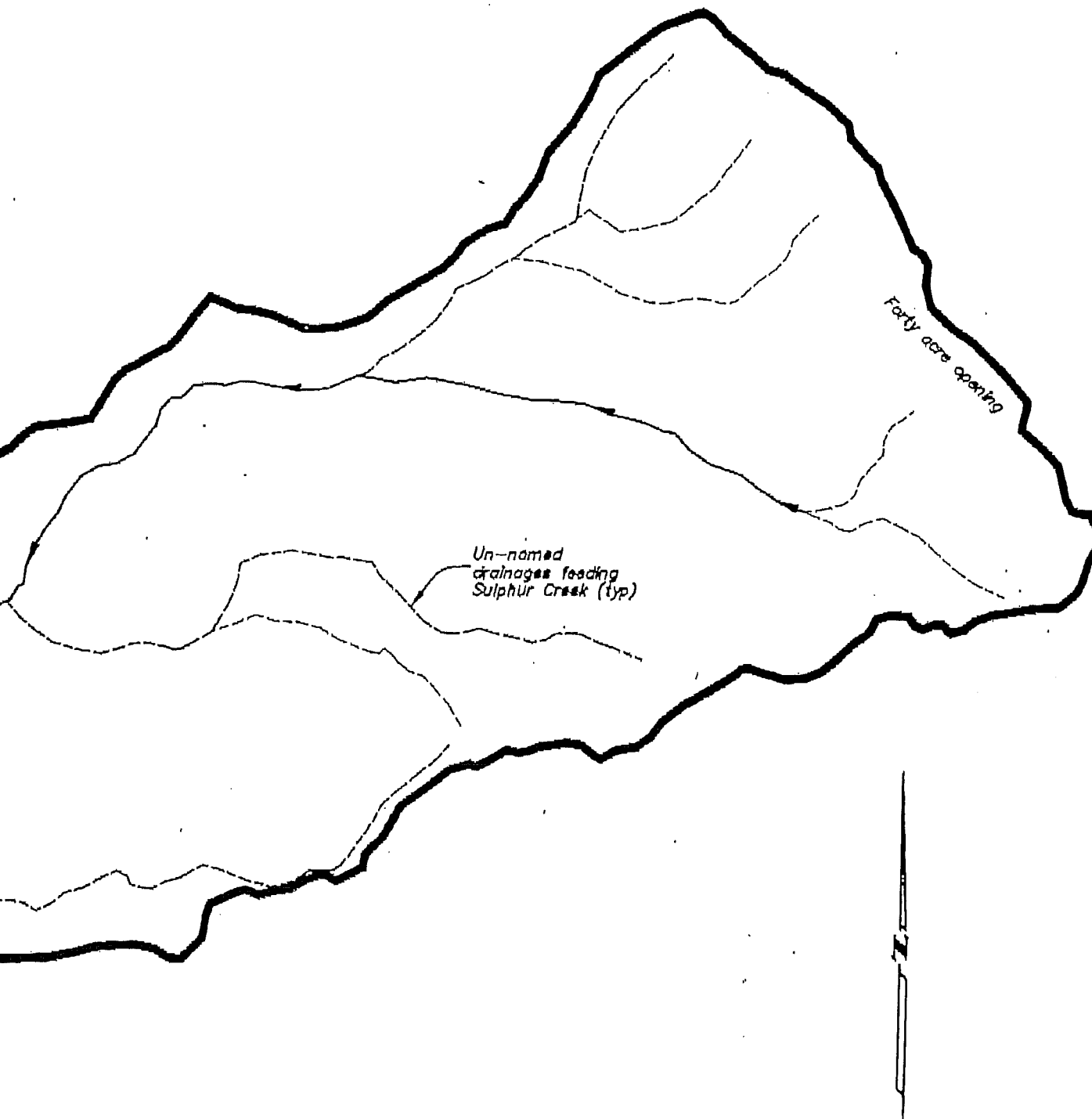
Drainage area of un-named drainage
southerly of POINT "A", = 0.52 square miles

Drainage area above proposed new
dam site = 0.17 square miles

Dam site drainage area is 2.6% of the total
Sulphur Creek drainage above POINT "A".

Dam site drainage area is 33% of the total
un-named drainage southerly of POINT "A".





Sulphur Creek Drainage Area
Scale: 1"=2000'

1
2
3
4
5
6
7
8 **IN THE MATTER OF THE ARBITRATION OF**

9 **RUSTIC RETIREMENT, LLC,**

10 **Petitioner,**

AWARD IN ARBITRATION
(Per Fish and Game Code 1603)

11 **v.**

12
13 **CALIFORNIA DEPARTMENT OF**
14 **FISH AND GAME,**

15 **Respondent.**
16 _____/

17 On March 6, 2001, Rustic Retirement, LLC, Petitioner in this proceedings and hereinafter
18 "Applicant", filed an Application pursuant to Fish & Game Code, Sec. 1603, for a Streambed Alteration
19 Permit for the construction of a reservoir or pond on a tributary to Sulphur Creek in the Russian River
20 Basin, in Mendocino County. The Department of Fish and Game, hereinafter "Department", rejected the
21 original Application as incomplete and a new Application was filed on March 17, 2001. There were
22 numerous communications between the parties until September 12, 2003, when the Department notified
23 Applicant that they deemed the Application complete and on October 10th the Department made requests
24 for modification of the project. Applicant rejected the modification proposals and the matter was
25 thereupon set for Arbitration Hearing pursuant to Fish & Game Code, Sec. 1603.

26 The parties stipulated that the Arbitration should be in accordance with the applicable law as it
27 read at the time of the initial Application.

28 Applicant designated as their Party Arbitrator Mr. Ed Berry of Ukiah and the Department
designated Mr. Richard Roos-Collins and the Neutral Arbitrator was thereafter chosen and both sides

1 served extensive Briefs, Memorandums of Points and Authorities and other documentary matters. An
2 initial hearing was held on July 13th and when testimony was not completed on that date the hearing was
3 continued to September 13th. Prior to the continued hearing, the parties served Supplemental Points and
4 Authorities, Declarations, Statements and other matters for consideration by the Panel. The matter was
5 deemed submitted at the close of the proceedings on September 13, 2004.

6 The Panel considered all matters submitted and resolved those issues that are properly before it
7 in the Application within the scope of Section 1603(b). Pursuant to the applicable provisions of the Fish
8 and Game Code, the Panel did not address other federal and state permits, and hereupon enter their
9 Award:

10 This Arbitration Award shall issue to Applicant for the proposed construction of the dam and
11 impoundment caused thereby, subject to the following terms and conditions and Applicant and the
12 Department are both bound by and will abide by this Award.

13 PRE-CONSTRUCTION

14 1. Applicant shall identify the mitigation area, all proposed restoration activities, estimated costs
15 and security provisions to ensure implementation. A restoration plan to accomplish the mitigation as
16 required herein shall be approved by Department prior to construction of the project or any portion
17 thereof. Applicant shall implement the approved plan. Restoration duties shall continue until replacement
18 plantings meet Department criteria.

19 To ensure a successful revegetation effort, all plants shall be monitored and maintained as
20 necessary for five years. All planting shall have a minimum of 80% survival at the end of 5 years and shall
21 attain 70% cover after three years and 75% coverage after 5 years. If the survival and/or cover
22 requirements are not meeting these goals, the Applicant is responsible for replacement planting, additional
23 watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements.
24 Replacement plants shall be monitored with the same survival and growth requirements for five years
25 after planting. An annual status report on the mitigation shall be provided to the Department by
26 September 1 of each year. This report shall include the survival, percent cover, and height of both tree
27 and shrub species. In addition, it shall identify remediation measures, including the need to replant, to
28 assure planting objectives are achieved by year 5. The number by species of plants replaced, an overview

1 of the revegetation effort, and the method used to assess these parameters shall also be included. Photos
2 from designated photo stations shall be included.

3 2. The restoration plan, estimated costs and security provisions to ensure implementation shall
4 be reviewed and approved by Department. Restoration activities shall be as stated in Paragraph 1.

5 3. The bypass flow structure to comply with measures 7 - 9 set forth below shall be approved
6 in advance of construction by an engineer assigned by the Department. The diversion structure shall be
7 a passive system, in that it shall not require continuous monitoring/manipulation by the Applicant to
8 ensure bypass is met. It shall be designed to divert flow only when the terms of the Arbitration Award
9 and Water Right Permit are met. Outside the diversion season, and at low flows, water shall bypass the
10 diversion facility. All rights to commence impoundment of any flows are contingent on approval,
11 construction, and proper functioning of an approved flow bypass system.

12 4. A copy of this Arbitration Award must be provided to the contractor and all subcontractors
13 who work within the stream zone and must be in their possession at the work site.

14 15 **DURING CONSTRUCTION**

16 During construction Applicant will ensure adequate erosion control conditions pursuant to the
17 attached "Exhibit A".

18 **POST-CONSTRUCTION**

19 5. Applicant shall mitigate the loss of 1200 linear feet of stream riparian habitat by restoration
20 of riparian stream habitat on that portion of Sulphur Creek on his property both above and below the
21 dam, in an amount up to 1800 linear feet.

22 6. The loss of Oak Woodlands created by the construction of the dam shall be mitigated by the
23 planting of two oak trees in the species composition for each oak tree taken heretofor in anticipation of
24 this project and during the project.

25 7. Diversion impoundment shall be limited to the period between December 15 and March 31
26 of the following year and from April 1 to December 14 all natural flow shall be bypassed around or
27 through the dam.

28 8. During the December 15 to March 31 diversion season, 0.2 cubic feet per second (cfs) or the

1 natural flow (whichever is less) shall be bypassed around or through the dam to maintain the aquatic
2 resources that would exist in downstream reaches under unimpaired flows.

3 9. Applicant shall not cause any change in the flows that bypass the reservoir after March 31 that
4 result in a different rate and temperature as flows coming into the reservoir.

5 10. For the life of the impoundment, the Applicant shall compensate for the loss of sediment input
6 to the downstream watershed by purchasing appropriate sized gravels and delivering them to the base
7 of the dam for stream replenishment. The timing and amount of gravels shall be consistent as those
8 provided by natural flow and placed at times directed by Department.

9 11. For the life of the impoundment, the Applicant shall exclude unpermitted exotic nuisance
10 species, including but not limited to non native bullfrogs from the pond, and not introduce any fish species
11 resident to the Russian River and Mendocino Lake, i.e. bass and bluegill, without a stocking permit from
12 Department.

13 GENERAL

14 12. Department personnel or its agents may inspect the work site at any time, on reasonable
15 notice, for the duration of the construction or post-construction phases of this project.

16 13. In the event that the project scope, nature, or environmental impact is altered by the
17 imposition of subsequent permit conditions by any other local, State or Federal regulatory authority, the
18 Applicant shall notify Department of any such project modifications that interfere with compliance of
19 Department conditions contained herein.

20 14. If unforeseen conditions arise which cause significant adverse impacts to fish and/or wildlife
21 resources, the Applicant may be required to remediate the situation to the reasonable satisfaction of
22 Department.

23 15. Applicant shall comply with the terms of this Arbitration Award, including all approved plans,
24 and shall be liable for violations committed by the contractors and/or subcontractors. Department
25 reserves the right to suspend construction activity described in this Award if Department determines any
26 of the following has occurred:

27 A) Failure to comply with any of the conditions of this Arbitration Award.

28 B) The occurrence of State or Federally listed species in the area or risk to

Exhibit A
Erosion Control Conditions

1. Construction shall be confined to the period of July 15 to October 31. If the Operator needs more time to complete the authorized activity, the work period may be extended on a day-to-day basis by Corrine Medlin at 707-944-5526, or, Linda Hanson at 707-944-5562.

2. The Operator/Contractor shall provide DFG a detailed construction schedule. The schedule shall identify the approximate beginning and completion date for each activity within the stream zone. The construction schedule shall be sent via mail or FAX to the Regional office at: P. O. Box 47, Yountville, CA 94599, FAX (707) 944-5595. Refer to Notification 2001-0181 when notifying DFG. The names, phone numbers, cellular phone numbers, pager numbers of key personnel shall be included in this notification.

3. To the extent that any provisions of this Agreement provide for activities that require the Operator to traverse another owner's property, such provisions are agreed to with the understanding that the Operator possesses the legal right to so traverse. In the absence of such right, any such provision is void.

4. The work period for completing the work shall be restricted to periods of low or no stream flow and dry weather. Operations shall not begin unless a no precipitation forecast is obtained covering the entire construction phase and the time necessary to implement erosion control measures. This forecast shall be documented upon request of DFG.

5. No phase of the project may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm event if that construction phase may cause the introduction of sediments into the stream. Seventy-two-hour weather forecasts from the National Weather Service shall be consulted prior to start up of any phase of the project that may result in sediment runoff to the stream.

6. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. Vegetation outside the construction corridor shall not be removed or damaged without prior consultation and approval of a Department representative. Where feasible, hand tools (chain saw, etc.) shall be used to trim vegetation to the extent necessary to gain access to the work sites. All cleared material/vegetation shall be removed out of the riparian/stream zone.

7. Upon completion of operations and/or onset of wet weather, all disturbed earthen materials shall be seeded using native or non-invasive mixes and mulched with weed-free straw or native materials.

8. During construction and upon completion of construction all exposed/disturbed areas within the project site shall be stabilized to the greatest extent possible. Erosion control measures, such as silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and

broadcasted straw shall be used wherever silt laden water has the potential to leave the work site and enter State waters. Erosion control measures shall be monitored during and after each storm event. Modifications, repairs and improvements to erosion control measures shall be made whenever needed. Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation shall be halted until effective Department approved control devices are installed, or abatement procedures are initiated. DFG may take enforcement action if appropriate turbidity and siltation control measures are not deployed.

9. Staging and storage areas for equipment, materials, fuels, lubricants and solvents, shall be located outside of the stream channel and banks. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the stream shall be positioned over drip-pans. Any equipment or vehicles driven and/or operated within or adjacent to the stream must be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life. Vehicles must be moved away from the stream prior to refueling and lubrication.

10. All construction debris and associated materials shall be removed from the work site upon completion of this project. Any equipment or vehicles driven and/or operated within or adjacent to the site shall be cleaned of all external oil, grease, and materials that, if introduced to water, could be deleterious to aquatic life, wildlife or riparian habitat. Stationary equipment, such as motors, pumps, generators, and welders, located within or adjacent to the stream/lake shall be positioned over drip-pans.

11. The Operator shall provide DFG with a single weekly status report on all activities authorized by this Agreement. The status report shall list the schedule of events (beginning dates, work in progress, and completion dates). The status report shall be submitted to DFG every Monday until the list of authorized activities is complete or there are scheduled periods of inactivity. The status report shall be sent via e-mail transmittal to cgray@dfg.ca.gov.

12. No equipment shall be operated within the flowing stream.

13. Creosote-treated wood products shall not be used in State waters.

14. Building materials and/or construction equipment shall not be stockpiled or stored where they could be washed into the water or where they will cover aquatic or riparian vegetation.

15. Debris, soil, silt, bark, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the State. Any of these materials, placed within or where they may enter the River, by Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately.

PROOF OF SERVICE BY MAIL

I declare that: I am a resident in the County of Mendocino, State of California. I am over the age of eighteen years.

On this date I caused the attached:

Notice of Entry of Judgment

to be served on all parties as follows:

x By Mail: On the date written below, at Ukiah, California, I placed a true copy of the above-written document in a sealed envelope(s) and placed it for collection and mailing that date following ordinary business practices addressed as follows:

Hal Thomas
DFG, Office of General Council
1416 Ninth St.
Sacramento, CA 95814

Gavin G. McCabe
Office of Attorney General
455 Golden Gate Ave. #11000
San Francisco, CA 94102-3664

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration is executed this 20th day of December at Ukiah, Mendocino County, California.

Cheryl Murphy

Cheryl Murphy